

ANGELO PENA, ETAL

Plaintiff(s)

Index # 07 CV 7013

- against -

Purchased August 6, 2007

SP PAYROLL, INC., ETAL

Defendant(s)

AFFIDAVIT OF SERVICE

STATE OF NEW YORK: COUNTY OF NEW YORK ss:

BYRAN E. MCELDERRY BEING DULY SWORN DEPOSES AND SAYS DEPONENT IS NOT A PARTY TO THIS ACTION, OVER THE AGE OF EIGHTEEN YEARS AND RESIDES IN THE STATE OF NEW YORK.

That on August 13, 2007 at 06:39 PM at

1832 SECOND AVENUE
NEW YORK, NY 10128

deponent served the within SUMMONS AND COMPLAINT on SAM PODOLAK therein named,

SUITABLE AGE by delivering thereat a true copy of each to ITALO CARDENAS a person of suitable age and discretion. Said premises is Defendant's actual place of business within the state. He identified himself as the CO-WORKER of the Defendant.

Deponent further states that he describes the person actually served as follows:

| Sex | Skin Color | Hair Color | Age (Approx.) | Height (Approx.) | Weight (Approx) |
|------|------------|------------|---------------|------------------|-----------------|
| MALE | BROWN | BROWN | 38 | 5'6 | 150 |

MAILING Deponent enclosed a copy of same in a postpaid wrapper properly addressed to the Defendant at the Defendant's actual place of business at1832 SECOND AVENUE
NEW YORK, NY 10128

and deposited said wrapper in a post office or official depository under exclusive care and custody of the United States Postal Service within New York State on August 14, 2007 by REGULAR FIRST CLASS MAIL in an envelope marked PERSONAL & CONFIDENTIAL and not indicating on the outside thereof, by return address or otherwise, that the communication is from an attorney or concerns an action against the person to be served.

MILITARY SERVICE Person spoken to was asked whether the Defendant was in the military service of the State of New York or the United States and received a negative reply. Upon information and belief based upon the conversation and observation as aforesaid deponent avers that the Defendant is not in the military service of the State of New York or the United States as that term is defined in the statutes of the State of New York or the Federal Soldiers and Sailors Civil Relief Act.

That at the time of such service deponent knew the person so served as aforesaid to be the same person mentioned and described as the Defendant in this action.

Sworn to me on: August 14, 2007

JOEL GRABER
Notary Public, State of New York
No. 02GR4699723
Qualified in New York County
Comm. Expires February 10, 2010MICHAEL SMITH
Notary Public, State of New York
No. 01SM4997428
Qualified in New York County
Comm. Expires June 8, 2010JONATHAN GRABER
Notary Public, State of New York
No. 01GR6156780
Qualified in New York County
Comm. Expires December 4, 2010
BYRAN E. MCELDERRY
License #: 869802
Invoice #: 445887